

BARTLEY'S BONDSMEN

Supreme Court Reverses Decision Holding Them Liable as Sureties.

CASE IS REMANDED FOR A NEW TRIAL

Similar Decision is Had in the Omaha National Bank Case.

WEAVER ACT IS DECLARED TO BE

Under This Decision the New Insurance Department is Knocked Out.

BOARD OF TRANSPORTATION SUSTAINED

Court Holds that the Board Has the Power to Regulate Express Rates—Stable and Opinions.

LINCOLN, Dec. 19.—(Special Telegram.)

The supreme court adjourned this afternoon and handed down decisions in a number of important cases.

The decision of the district court of Douglas county holding the sureties of former State Treasurer Bartley liable on his official bond was reversed and remanded. The decision of the court of the same county in favor of the Omaha National bank in the suit of the state to recover on the \$200,000 warrant paid by that institution to Bartley was also reversed and remanded.

Sections 36 and 37 of the Weaver insurance law providing for the payment of fees for licenses and levying of taxes by the insurance commissioners, were declared unconstitutional, leaving the entire act void. The decision, however, does not say that the legislature has no authority to change the insurance supervision from the auditor's office to a commission created by a legislative act. It is held that the taxation sections were the inducement for the passage of the act. According to the decision the law contravenes section 1 of article ix of the constitution, which provides that every person or corporation shall pay a tax proportion to the value of his or her property. This decision of the court will, of course, knock out the new insurance department, and it is not likely that the auditor will allow the salary claims of the insurance employees.

The decision of the court in the Bartley bondsmen case holds that the governor only approves a bond of a state official and that the same does not become binding until the approval of the state seal. The failure of an official to file a bond within the time required by law creates a vacancy in that office.

The court sustained the Board of Transportation in the Pacific Express company case, holding that it had the power to regulate express rates. The express company denied this right on the ground that the board was an unconstitutional organization.

The important sections in the syllabus of the opinion in the Omaha National bank case are:

"Payment by the state treasurer of public money, claiming to be the owner of such warrant, is conversion and the receiving of such money by the person to whom paid is also conversion."

"Such a warrant is not a state obligation and the person to whom it is payable, being a mere trustee, possesses no salable interest."

Bartley Bondsmen Case.

The syllabus of the decision in the Bartley bondsmen case is:

In reviewing a judgment rendered on a verdict given in obedience to a peremptory instruction, it is the duty of the reviewing court to assume the truth of the evidence of the complaining party establishes or tends to prove.

An official bond is without validity until it has been delivered. The governor has no authority as an agent of the state to accept the official bond of state officers and by such acceptance make them binding obligations.

The duty of the governor with respect to the official bonds of state and district officers is merely to approve them.

The official bonds of state and district officers (except that of secretary of state) do not become binding obligations until they have been filed in the office of the secretary of state.

Section 15, chapter x, Compiled Statutes of 1888, contemplates that an official bond, after its approval by the proper officers, shall be returned to the person presenting it, and be by him filed in the proper office for record.

An instrument is not delivered until it has passed beyond the dominion control and authority of the state and is no longer capable of being recalled.

The approval of an official bond by the governor does not constitute acceptance, nor make it a valid contract.

The principal in an official bond has an implied authority to deliver to the state the bond of a day subsequent to that fixed by the statute for its delivery carries with it, prima facie, the right to have it approved and delivered.

Sureties on an official bond have the right, at any time, to demand the return of the instrument to revoke their principal's authority to bind them; but until such revocation the right of the principal to bind them by accepting their offer to answer for the official duties of their principal.

Several days after the time fixed by the statute for filing an official bond the sureties thereon signed the following declaration:

"That any and all additional names that (their principal) may procure on said bond shall in no manner constitute a liability said bond, and each of us are held liable the same as if said names had not been added." Here, the sureties have admitted the inference that at the time it was signed the sureties knew the bond had not become effective by having been approved and filed for record.

And held, also, that when the principal presented the bond for approval, accompanied by such instrument, he had no authority to deliver the bond to the state until the obligation approved and delivered.

No officer of the state is authorized to demand additional sureties of the state treasurer after his official bond has been duly approved and filed for record.

The failure of a state officer to deliver to the state his official bond approved and filed for record in the proper office, within the time fixed by the statute, creates a vacancy in the office to which he has been elected or appointed.

In such case the state may waive its right to elect the incumbent and elect to fill with him as the person entitled to the office.

And if the state does waive its right the sureties on the bond of the incumbent are estopped from denying the validity of the bond because it was not approved and filed within the time fixed by law.

Where two or more persons have conspired to procure the election of a state officer, and one of them, either jointly or severally, may sue them, either jointly or severally, as he may elect. And a court of equity will not require the plaintiff to elect one of the wrongdoers rather than another who is equally culpable.

A document prepared by an accounting officer during his term of office showing the receipts and disbursements of, and the balance chargeable against a municipal officer, is competent evidence against the officer if it was used by him in accounting to his successor and turning over the office at the time and in the manner contemplated by the law and the contract of the office.

A person who has held an office for some considerable time is presumed competent.

(Continued on Third Page.)

BROOKE ISSUES PROCLAMATION

Congratulates General Upon Wonderful Progress During Last Year—Gen. Wood Expected Today.

HAVANA, Dec. 19.—General Brooke will issue tomorrow the following proclamation:

"By direction of the president I hereby transfer to my successor, Major General Leonard Wood, the duties and responsibilities of the office of military governor, by speaking for him that support and confidence which you have come to accord me, and those who have been associated with the performance of the difficult task of organizing and placing in operation government of the island, thereby expressing this expression of appreciation and thanks for their loyal and patriotic support and assistance."

"A year ago I found the country most thoroughly devastated, its resources and commerce destroyed and its rural population gathered into towns without food and without shelter and dying of starvation and exposure. The government of the United States immediately supplied food and fuel. In a short time this condition passed away and now the country is rapidly progressing forward to a prosperity hitherto unknown in its history. Look about and see how true this is. The various steps that have led to the present condition are well known to you and need not be mentioned here. The change is truly marvelous. Without the semblance of civil government you have now a complete one. Your municipal and provincial governments are all in the hands of your own citizens. The military control is purely advisory and supervisory. Many of your laws have been modified and changed to suit the times in which you are, as well as the interests of good government. You are now reorganized and are in operation. Peace reigns. Law and order rule."

"By your own industry and by a careful observation of these conditions the full restoration of your social affairs and prosperity is assured. With the feeling that the future is in your hands, to make or to mar, and trusting that wise counsels may prevail among you, I say to you farewell."

General Wood's arrival is looked for tomorrow. The division will be represented by General Richards and Major General Wood. The department by Adjutant General Scott and aide-de-camp. These officers will meet the vessel, going down the harbor in tugs. General Brooke made a call upon Captain Sigbee on board the Texas, receiving a salute of seventeen guns.

GERMANY SHORT OF BULLION

Financial Position of Imperial Bank Has Never Been So Strained as at Present.

BERLIN, Dec. 19.—The Reichsanzeiger publishes the following statement:

"At the meeting of the central committee of the Bank of Germany today Herr Koch, director, discussing the position, said the financial position of the bank had never before been so strained at the same period of the year and that the stock of bullion has become seriously diminished, being 57,000,000 marks less than in 1898."

"After giving other figures showing the difficulty of the situation in Germany it was impossible to avoid an increase in the bank rate. Dr. von Muehl, Prussian minister of finance, has just submitted to Emperor William a special report regarding Prussia's finances from 1897 to 1899. The report on the whole is favorable, showing a diminution of the Prussian debt. The interest on the debt has diminished from 242,000,000 marks to 221,000,000 marks."

The state railways have, despite the very heavy traffic, made a less profitable showing, the surplus now being 495,000,000 marks, as against 500,000,000 marks in 1898.

In Count von Buelow's latest speech last week occurred a passage indicating Germany's need of a number of "points d'appui" and calling stations for the German navy. This passage was purposely worded cautiously, the meaning being somewhat of a diminution of the Prussian debt. The interest on the debt has diminished from 242,000,000 marks to 221,000,000 marks."

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(Continued on Third Page.)

ENGLISH HINT TO PORTUGAL

Supplies and Foreign Volunteers Reaching Transvaal Through Delagoa Bay.

ENGLAND TO HAVE SOMETHING TO SAY

General Buller Credited with Having All Along Demanded Mounted Infantry—Cruiser Is to Convey Kitcheners.

LONDON, Dec. 19.—The Standard hints editorially this morning that if Portugal continues to allow supplies of war material and foreign volunteers to reach the Transvaal through Delagoa bay England will have something to say in the matter.

Statements are published from Boer sources in Brussels and Berlin that President Kruger is willing to conclude peace on the basis of the status quo, but that otherwise he will call upon the Boers in Cape Colony to join in proclaiming the independence of the Cape territories of Great Britain.

The government has at last consented to mobilize a force which General Buller is credited with having demanded all along, namely, 10,000 mounted infantry. This morning the War office issued an order to the effect that the mounted infantry force to be raised for South Africa is to be called "Imperial Yeomanry" and to be recruited from yeomanry, volunteers and civilians possessing the requisite qualifications. Enlistment will be for one year, or during the continuance of the war. The men must be between 20 and 35 years of age and of equal physique to the ordinary cavalry soldier. Officers and men are to provide their own horses and to wear their own uniforms. They must be well mounted, and must be good riders and marksmen. All must be good riders and marksmen.

The same order invites every volunteer to be enlisted with a regular battalion serving at the front to supply a full company, which will take the place of the mounted infantry of the regiment.

These arrangements are expected to result in a considerable force. The enrolled strength of the yeomanry forces which originated in the trouble period of the French revolution is now 10,433. Their services have never before been called for.

The lord mayor of London, Alfred Newton, is raising and equipping a force of 1,000 volunteers among the city corps. The large firms are contributing the necessary expenses.

Colonel Sir Charles Howard Vincent, commander of the Queen's Westminster volunteers, has offered to raise a regiment of 1,000 picked marksmen.

The War office has also received a number of offers of volunteer enlistment. These arrangements are expected to result in a considerable force. The enrolled strength of the yeomanry forces which originated in the trouble period of the French revolution is now 10,433. Their services have never before been called for.

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the army ready and on the spot, was trying to polish its conscience, and even in September could not bring itself to send more than 10,000 men.

"In Natal the British and Boer forces are now facing each other like two wrestlers, but, taking a general view, there has been no halt. The longer they fight the heavier will be the fall in the end, but it is yet to come."

ENGLISH ROB THE DEAD BOERS

Philip Koch, Nephew of General Koch, Tells of Wholesale Robbery on the Battlefield.

(Copyright, 1899, by Press Publishing Co.) LONDON, Dec. 19.—(New York World Telegram—Special Telegram.)—W. T. Stead in a letter to the Daily News tells the story of Philip Koch, a nephew of General Koch, in regard to the latter's experience at Elandlaagte.

"The first of the wounded I happened on was General Koch. He lay in a small tent, entirely naked. He told me that an English soldier had come to him and robbed him of all the money that was in his trousers pockets, of his watch and of all his clothes excepting one coat. He also informed me that this person said that he belonged to the Indian troops."

"The general was covered by a thin blanket and a small set of drawers. Although General Koch was severely wounded and Major Althorn had promised that he should be allowed to return to Pretoria, where he would be well nursed, General White refused to allow him to leave Ladysmith, as the retention of a general officer of such rank and standing as a prisoner of war is of considerable value to the state."

"General White represented that General Koch died ten days after receiving his wound, on October 31. His nephew says his uncle was received so much from the wound he received as in consequence of treatment he suffered in the first instance."

Philip Koch, according to Mr. Stead, besides his statement as to the way in which his uncle was treated, makes specific statements as to the robbery of the wounded and the robbery of the dead. Young Koch said:

"Not alone were General Koch and persons mentioned above robbed of their clothes, watches and money, but also others on the battlefield. I saw the remains of Assistant Commandant Doderen, Landrood of Kruger's Corps. He had received a bullet in the left breast, which pierced his heart. He had been robbed of his telescope and rings had been taken from his fingers and all his money was gone."

"I also saw the remains of Piet Bignanten. His boots, watch, money and snuff box were taken. A body of Willie Pretorius, the revenue collector at Johannesburg, was gone. All the money and rings from his fingers. From Servaas de Wet, who was only wounded in the left leg, a ring and money were taken."

Philip Koch concludes his declaration by saying:

"As far as I can see our burghers can expect no Christian and civilized treatment from the English. So far their treatment of us has been of a nature I should be ashamed to apply to a Kaffir."

They Pray for Peace.

(Copyright, 1899, by Press Publishing Co.) ANTWERP, Dec. 19.—(New York World Telegram—Special Telegram.)—Two great prayer meetings were held at Rotterdam last night by Dutch pastors gathered from all Holland. The Transvaal hymn was sung and 6,000 florins collected. A resolution was passed to send a circular to all British pastors, asking them to preach and pray for an end to hostilities. Amsterdam and Hague women are offering their services for collecting money and many young men of good family of The Hague have decided to go to the Transvaal to join the Boers.

Queen Sympathizes with Roberts. LONDON, Dec. 19.—The queen has sent a letter to General Lord Roberts, the newly appointed commander-in-chief of the British forces in South Africa, warmly sympathizing with him on the death of his gallant son, and thanking him for the great patriotism he has displayed in putting aside his terrible private grief in order to devote himself to the affairs of the nation.

Memorial Service for Soldiers. LONDON, Dec. 19.—A most impressive memorial service was held in St. Paul's cathedral this afternoon in memory of the soldiers who fell in the South African war. The service was conducted by the Rev. Mr. J. H. St. John, the lord mayor, Mr. A. J. Newton, and the city officials attended in their robes of office. The cathedral was thronged, those present including the duke of Cambridge and the marquis of Lansdowne, the secretary of state for war.

Sympathy for the Boers. DENVER, Dec. 19.—By a vote of 9 to 5 the board of aldermen of Denver adopted a joint resolution expressing sympathy for the Transvaal republic in its war with Great Britain and hope for the success of the Boer arms. The resolution was introduced by Alderman Kelly and was supported by every democrat but one on the board.

Volunteers for Cape War. LONDON, Dec. 19.—Ninety per cent of the members of the Honorable Artillery company in London have volunteered for service in South Africa. Two-thirds of the members of the court volunteers, composed of barristers and solicitors, have likewise tendered their services.

War Office Silent About Report. LONDON, Dec. 19.—The War office declines either to confirm or contradict the report telegraphed by a correspondent of the Daily Mail that General Buller has crossed the Tugela river and that General Methuen's communications have been cut.

To Head Sons of Veterans. Attorney McGuire of Indianapolis Announces Himself as a Candidate for National Commander.

INDIANAPOLIS, Dec. 19.—Newton J. McGuire, an attorney of this city, has announced his candidacy for the office of national commander of the Sons of Veterans.

McGuire organized the Harrison Post No. 28 in Indianapolis and the Southwestern Indiana Sons of Veterans' association. At the state encampment in Fort Wayne in 1892 Mr. McGuire was elected state commander and was re-elected in 1893. He was made state adviser and state commander in 1894. Indiana has not had the post of national commander since 1889, when Charles T. Griffin of Hammond held the office.

Movements of Ocean Vessels. Dec. 19. At New York—Arrived—Manitou, from London; Kaiser Wilhelm der Grosse, from Bremen; Southampton, from Cherbourg; Purser Bismarck, from Naples.

At Hamburg—Arrived—Bulgaria, from New York.

At Yokohama—Sailed—Queen Adelaide, for Tacoma.

At Honolulu—Sailed—Phoenixia, for New York.

At Southampton—Arrived—Trave, from New York.

At Gibraltar—Sailed—Verba, from Genoa.

At Plymouth—Arrived—Proctor, from New York, for Hamburg, and proceeded.

MILLIONS OF MONEY IN SIGHT

New York Clearing House Banks Keep the Market Rate Down.

WALL STREET FLURRY PASSING AWAY

Professional Traders Take Long Side of Market and Bid Prices Up—Increase of Government Deposits Promises Relief.

NEW YORK, Dec. 19.—There was a complete revolution of sentiment in Wall Street this morning. The latter part of the session of the Stock exchange witnessed something like a panic among the bears, who were making frantic efforts to secure stocks to cover short contracts and bidding prices up on themselves.

The professional traders took the long side of the market, and bid up prices to take the market away from the bears. Many operators who had ruthlessly sacrificed their positions in the pandemonium of the day, were eager buyers in the hope of retrieving losses. Beside these elements there was a large contingent of bargain-hunters, made up of people who had been looking for investment and who bought outright to hold. Some such revolution of feeling was natural after the feeling of yesterday. The speculative situation was by no means confident until after about midway of the session.

Millions of dollars of money were forthcoming in the market, ready to be put to use in the purchase of securities. The clearing house banks supplemented their yesterday's contribution of \$10,000,000 by another of the same amount to be loaned at the market rate. The announced determination of the secretary of the treasury to increase government deposits in depository banks, gave promise of relief from the start and funds estimated at \$7,000,000 became available from this source before the market closed.

Heavy Demands for Money. Under the influence of this abundance yesterday's panic rates for money were at no time approached, but the demand for loans made inroads on the supply with seemingly insatiable appetite. The loan rate went to 25, but steadily declined from that point under the offerings of successive millions until it was forced to 6 per cent and in the late afternoon fell to 5 1/2, 5, 3 and at last to 2 1/2. As soon as the stringency relaxed it became manifest that the pressure of the market was released and the market fell into a calm.

When the money rate fell to an easy basis prices began to rebound and some sensational recoveries shown, especially in the mercantile specialties. The advances were so large as to invite considerable profit to traders in final dealings, but the under-tone continued strong to the close, which showed substantial gains throughout the list. The early hours of the trading witnessed very heavy liquidation in the continuation of yesterday's process of recuperation, but there was no approach to the panic conditions of yesterday at any time.

The extensive and elaborate preparations to meet the crisis were evident at the opening and prices were opened at large advances all through the list. This was helped by the lower quotations sent over from London, where the Stock exchange had been closed by a railway strike.

The recovery of the London market was doubtless due in part to manipulation orders cabled from this side, in furtherance of the general plan to sustain and protect the market.

The opening advance was met by an avalanche of liquidating sales, which promptly drove down prices in spite of the utmost efforts to sustain them. Not a few stocks showed evidences of positive weakness and the first two hours of the trading were given up to furious activity and indecisive confusion of sentiment. The steady absorptive power of the buying was bound to have a reassuring effect and the manner in which the liquidation was brought to a standstill was highly impressive.

Failure Does Not Affect Market. Even before noon sufficient stability had been established to face the report of a failure by a brokerage house in Boston, which would have been sufficient to demoralize yesterday's market. With the subsidence of the panic conditions a saner and quieter view of conditions developed.

A study of the facts in connection with the trust company which came to grief yesterday and of the securities with which it was involved showed them to be unique and not to be taken as justifying the fear and distrust which was felt yesterday, not only of all trust companies, but of all industrial securities.

There was abundance of precaution and discrimination shown today against many of the industrial, especially in the placing of loans. They were not acceptable as collateral and money was not easily procured for the purpose of supporting them in the market. It was reported that the financial powers concerning measures of relief were in an altogether different agreement as to the length it desired to go, some of them holding the opinion that no real benefit would accrue from sustaining some of the industrial securities. But the danger disclosed by yesterday's event of the whole fabric of the market was not so great as it seemed. The day in favor of the relief measures. The decision of the banks was to place all of their available resources at the disposal of borrowers without regard to the effect on the surplus reserve. The knowledge of the determination had much to do with allaying the apprehension.

The clearing house committee was in session during the day, but by the time the market closed it had concluded not to hold a meeting for tomorrow, but further sessions can be called as necessary.

Yesterday's events attracted large crowds to the financial district today. Great crowds of all sorts and conditions of men and women surrounded the approaches to the Stock exchange. The strain on the brokers and operators was very severe and the scramble and turmoil on the floor added to the confusion.

A comparison of prices with those of Saturday's close show that the level is still materially lower, though very substantial recoveries were made of yesterday's extreme losses. The day's advance ranges from 2 to 12 points in the prominent active stocks.

Financial World Apparently Recovers Its Nerve. LONDON, Dec. 19.—The failure of the London and Northern bank, limited, a comparatively small concern, was announced today. The directors issued a statement attributing the failure to the alleged libelous assertions regarding the bank which have appeared in the press. The bank's assets, according to the directors, should fully cover the liabilities.

The failure of the bank and the rise in the German rate of discount and interest, the latter from 7 to 8 per cent, did not appear to have any serious effects on the

CONDITION OF THE WEATHER

Forecast for Nebraska—Fair and Warmer; Southerly Winds.